

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, ) CASE NO. 8:07CR443  
                                )  
Plaintiff,                 )  
                                )  
vs.                         ) MEMORANDUM AND ORDER  
                                )  
SIYAD WARSAME ALI,        )  
                                )  
Defendant.                 )

This matter is before the Court on remand from the United States Court of Appeals for the Eighth Circuit (Filing No. 171).

On May 2, 2012, the Eighth Circuit granted a certificate of appealability on the claim of the Defendant, Siyad Warsame Ali, the his trial counsel, Brent W. Nicholls, was ineffective for failing to properly advise him regarding his right not to testify at trial. The Eighth Circuit remanded this case for an evidentiary hearing.

The Bureau of Prisons' website shows that the Defendant was released from the Bureau of Prisons on January 25, 2012. However, he remains "in custody" for purposes of litigating his motion under 28 U.S.C. § 2255. *United States v. Pregent*, 190 F.3d 279, 283 (1999).

Accordingly,

IT IS ORDERED:

1. A hearing on the remand (171) is scheduled before Judge Laurie Smith Camp on **Tuesday, August 21, 2012 at 9:00 a.m.** in Courtroom No. 2, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska.

2. The Clerk is directed to mail a copy of this Order to the Defendant at his last known address;
3. The Clerk is directed to mail a copy of this Order to Brent W. Nicholls, Kasaby, Nicholls Law Office, 308 S. 19<sup>th</sup> St., Suite 300, Omaha, NE 68102;
4. The Clerk is directed to notify the Federal Public Defender for the District of Nebraska of this Order; and
5. The Clerk is directed to deliver a copy of this Order to the United States Marshal for this District.

DATED this 31<sup>st</sup> day of May, 2012.

BY THE COURT:

s/ Laurie Smith Camp  
Chief United States District Judge